

Decision **PROPOSED DECISION OF ALJ DIVISION** (Mailed February 4, 2016)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U338E) for Approval of its 2013 Rate Design Window Proposals.

Application 13-12-015  
(Filed December 24, 2013)

**DECISION DENYING COMPENSATION CLAIM TO NATURAL RESOURCES  
DEFENSE COUNCIL FOR FAILURE TO TIMELY FILE A NOTICE OF INTENT FOR  
PARTICIPATION IN APPLICATION 13-12-015**

<b>Claimant:</b> The Natural Resources Defense Council (NRDC)	<b>For contribution to D.14-12-048</b>
<b>Claimed:</b> \$8,696.00	<b>Awarded:</b> \$0.00
<b>Assigned Commissioner:</b> Michael Picker	<b>Assigned ALJ:</b> ALJ Division

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	D.14-12-048 addressed the application of Southern California Edison Company (SCE) for approval of its 2013 Rate Design Window proposals, and approved the settlement agreement filed on August 14, 2014 via Joint Motion by SCE, the Office of Ratepayer Advocates (ORA), the Solar Energy Industries Association (SEIA), and the Natural Resources Defense Council (NRDC).
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	February 20, 2014	February 20, 2014
2. Other Specified Date for NOI:	n/a	n/a
3. Date NOI Filed:	2/19/15 per email communication from Judge Roscow on	February 19, 2015

	February 18, 2015 authorizing NRDC to late-file our NOI	
4. Was the NOI timely filed?		No. <i>See</i> I.C., Additional Comments.
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.14-07-002	R.14-07-002
6. Date of ALJ ruling:	December 18, 2014	December 18, 2014
7. Based on another CPUC determination (specify):	n/a	n/a
8. Has the Claimant demonstrated customer or customer-related status?		Yes.
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.14-07-002	R.14-07-002
10. Date of ALJ ruling:	December 18, 2014	December 18, 2014
11. Based on another CPUC determination (specify):	n/a	n/a
12. Has the Claimant demonstrated significant financial hardship?		Yes.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D. 14-12-048	D.14-12-048
14. Date of Issuance of Final Order or Decision:	12/22/2014	December 22, 2014
15. File date of compensation request:	2/19/15	February 19, 2015
16. Was the request for compensation timely?		No. <i>See</i> I.C., Additional Comments.

**C. Additional Comments on Part I:**

#	Intervenor’s Comment(s)	CPUC Discussion
1		<p>Pub. Util. Code §1804(a) (1) requires that, in cases where a prehearing conference (PHC) is held, a NOI be filed within 30 days after the PHC.<sup>1</sup> The PHC in A.13-12-015 was held on February 20, 2014. NRDC filed its NOI almost a year later on February 19, 2015, after the proceeding was closed.</p> <p>NRDC states that it was authorized by Judge Roscow to late-file its NOI, based on his February 18, 2015 electronic mail message to NRDC. However, the statutory deadline</p>

<sup>1</sup> *See also* Rule 17.1.

		for filing an NOI cannot be extended or waived by the Commission. Therefore, NRDC's NOI filing is untimely and is rejected. Because the NOI is rejected, NRDC is not eligible for compensation, pursuant to Pub. Util. Code §1804(c).
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## PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p><b>1. Time-of-Use Rate Design</b></p> <p>NRDC worked with SCE, ORA, and SEIA to craft a join motion for settlement that included time-of-use rate designs that will ensure drivers of plug-in electric vehicles (PEVs) will have an incentive to charge during off-peak hours, both to minimize adverse impacts to the electric grid and to maximize fuel cost savings. NRDC was the only environmental organization to participate in settlement negotiations, and brought a unique and valuable perspective, given our expertise in transportation electrification and utility rate design. NRDC advocated rate designs meant to ensure all PEV customers, regardless of non-PEV consumption, have a financial incentive to charge during off-peak hours to minimize adverse impacts to the electrical grid. NRDC also advocated for rate designs that improve savings relative to gasoline and ensure that both low and high</p>	<p>D. 14-12-048, p. 9:</p> <p>"In filed testimony, NRDC agreed with SCE's proposed rate design for Schedule TOU-D. ORA opposed adoption of Rate B, arguing that the fixed charge should not exceed that of Schedule D because of the revenue deficiency concerns described in the previous section.</p> <p>The Settling Parties resolved this issue by adopting SCE's rate design proposal for Rate B (subject to System Average Percentage Change, or System Average Percentage Change, scaling), and by modifying the rate design for Rate A by setting the baseline credit differently than how SCE proposed. Specifically, the baseline credit will be established using customers' baseline zone allocations (in kWh) multiplied by a cent-per-kilowatt value established as the difference between (a) the volume-weighted average of the non-baseline (non-Tier 1) Energy Rate(s) of Schedule D, and (b) Tier 1 Energy Rates, subject to the further provision that the baseline credit shall be at least one cent less than the super-off-peak rate."</p>	<p>N/A. <i>See</i> II.C, Additional Comments.</p>

consumption users have a financial incentive to adopt time-of-use rates.		
<b>2. Time-of-Use Rate Eligibility</b> NRDC's specific contribution to the question of eligibility for the time-of-use rates adopted in D.14-12-048 cannot be described fully, given the constraints imposed by the Commission's confidentiality rules governing settlements. However, NRDC has always advocated that all plug-in electric vehicle drivers have access to rates that provide an incentive to charge during off-peak hours, both to minimize adverse impacts to the distribution system and to maximize fuel cost savings.	D. 14-12-048, p. 8: "In filed testimony, NRDC supported SCE's proposal, but SEIA, ORA and TURN did not. Opposition to "open eligibility" centered on procedural and substantive concerns. Procedurally, ORA, TURN and SEIA advocated for Commission resolution of the issue of opt-in residential TOU rates of general applicability in either the ongoing Residential Rates Rulemaking or SCE's 2018 GRC Phase 2 instead of this RDW proceeding. ORA and SEIA supported limiting eligibility of Schedule TOU-D to customers who charge PEVs. Substantively, parties expressed concern about how a revenue deficiency from non-PEV-charging customers moving from SCE's default residential rate (Schedule D) to Schedule TOU-D would impact non-participating customers. To mitigate these concerns, the Settling Parties agreed to adopt SCE's open eligibility proposal on only a limited basis, for 200,000 customers total, subject to revisiting under certain circumstances should the need arise."	N/A.

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?</b>	Yes	Yes
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	No	Yes
<b>c. If so, provide name of other parties:</b>		
<b>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b>  Throughout the course of this proceeding, NRDC coordinated with various stakeholders, including ORA. By participating in settlement negotiations, NRDC helped avoid duplicative and extensive litigation at		Verified

the Commission. As the only environmental organization active in settlement negotiations, NRDC brought a unique and valuable perspective, drawing upon both our expertise in transportation electrification and utility rate design.	
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**C. Additional Comments on Part II:**

#	Intervenor's Comment(s)	CPUC Discussion
1.		NRDC's NOI was not timely filed and, therefore, NRDC is not eligible for compensation.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§§ 1801 & 1806):**

<p><b>a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation:</b></p> <p>The joint motion for settlement supported and partially crafted by NRDC which was adopted in D.14-12-048, will ensure that all PEV drivers in SCE territory have a financial incentive to adopt tariffs that encourage charging that will both minimize adverse impacts to the distribution system and maximize fuel costs savings. Widespread off-peak PEV charging encouraged by the TOU tariffs adopted via settlement will increase the utilization of existing utility assets, putting downward pressure on rates to the benefit of all utility customers (see analysis included in <a href="#">California Transportation Electrification Assessment Phase 2: Grid Impacts</a>, E3, October 23, 2014, p. 17).</p> <p>NRDC's contribution to the record and final decisions in this proceeding vastly exceeds the cost of NRDC's participation.</p>	<p><b>CPUC Verified</b></p> <p>N/A. See II.C, Additional Comments.</p>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>NRDC has only submitted hours for a single, relatively junior attorney, despite the fact several other attorneys and experts reviewed documents submitted to the Commission, thus eliminating any internal duplication. For instance, throughout the course of the proceeding, NRDC relied upon the input of Sheryl Carter, co-director of NRDC's Energy Program, who has nearly twenty years of relevant experience. However, none of Mrs. Carter's hours are included in this claim. The hours claimed for Max Baumhefner are conservative estimates of the actual time required to remain engaged in the formal proceeding and the ensuing settlement negotiations.</p>	N/A
<p><b>c. Allocation of Hours by Issue</b></p> <p>NRDC focused its efforts, both in the formal proceeding and in settlement negotiations on time-of-use (TOU) rate design and TOU rate eligibility. Of</p>	N/A

those issues, NRDC spent 78% of its hours on TOU rate design and 22% on TOU rate eligibility.	
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**B. Specific Claim:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Max Baumhefner, Attorney	2014	36.25	225	Res. ALJ-287/ D.08-04-010	\$8,156.00	0	Not Set	\$0.00
Subtotal: \$8,156.00						Subtotal: \$0.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Max Baumhefner, Attorney	2015	5	120	Res ALJ-303 D.08-04-010	\$540.00	0	Not Set	\$0.00
Subtotal: \$540.00						Subtotal: \$0.00		
TOTAL REQUEST: \$8,696.00						TOTAL AWARD: \$0		
<p>**We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR <sup>2</sup>		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Max Baumhefner		July 17, 2010		270816		No		

**C. Attachments Documenting Specific Claim and Comments on Part III:**

Attachment or Comment #	Description/Comment
Attachment 1	Staff hours

<sup>2</sup> This information may be obtained at: <http://www.calbar.ca.gov>.

Attachment 2	Resume for Max Baumhefner
Comment 1	<u>2014 Rationale:</u> Max is a lawyer with 4+ years of experience. In our recent R.11-03-012 claim, we requested a 2013 rate of \$210, which is the lowest of the band for lawyers with 3-4 years of experience. We now request a rate of \$225 for 2014 to include the first of two 5% steps within a given band per D.08-04-010, plus a COLA of 2.58% per Resolution ALJ-303.
Comment 2	<u>2015 Rationale:</u> We request a rate of \$240 that includes the second of two approved 5% steps plus a COLA of 2.58% per Resolution ALJ-303.

**D. CPUC Disallowances, Adjustments, and Comments:**

Item	Reason
Rejection of request for compensation	NRDC's late-filed NOI is rejected for failure to comply with Pub. Util. Code §1804(a) (1). As a result, NRDC is not eligible for compensation, and NRDC's request for compensation must be denied, pursuant to Pub. Util. Code §1804(c). <i>See I. Procedural Issues, C. Additional Comments.</i>

**PART IV: OPPOSITIONS AND COMMENTS**

Within 30 days after service of this Claim, Commission Staff  
or any other party may file a response to the Claim (see § 1804(c))

<b>A. Opposition: Did any party oppose the Claim?</b>	No.
<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?</b>	No.

If no,

Party	Comment	CPUC Discussion
	No comments were filed, as such no changes have been made.	

**FINDINGS OF FACT**

1. NRDC filed its NOI after the statutory deadline set forth in Pub. Util. Code §1804(a) (1). NRDC has not been found eligible for compensation.
2. NRDC's request for compensation does not comply with Pub. Util. Code §1804(c).

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, fails to satisfy the requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. Natural Resources Defense Council's Notice of Intent to claim intervenor compensation is rejected.
2. Natural Resources Defense Council's request for intervenor compensation is denied.
3. The comment period for today's decision is not waived.

This decision is effective today.

Dated \_\_\_\_\_, 2016, at San Francisco, California.



**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1412048		
<b>Proceeding(s):</b>	A1312015		
<b>Author:</b>	ALJ Division		
<b>Payer(s):</b>	None as a result of this decision.		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier ?</b>	<b>Reason Change/Disallowance</b>
Natural Resources Defense Council (NRDC)	2/19/15	\$8,696.00	\$0	N/A	Request of compensation denied due to untimely-filed NOI.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Max	Baumhefner	Attorney	NRDC	\$225	2014	Not Set
Max	Baumhefner	Attorney	NRDC	\$120	2015	Not Set

**(END OF APPENDIX)**